

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office
Phone (415) 355-7900 Fax (415) 355-8566
<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s): 13-16918

District Court/Agency Case Number(s): C 11-1726 RS

District Court/Agency Location: N.D. Cal.

Case Name: Fraley v. Facebook

If District Court, docket entry number(s) of order(s) appealed from: 359, 368

Name of party/parties submitting this form: Schachter, Parsons, Leonard, R.P., J.C. (objectors-appellants)

Please briefly describe the dispute that gave rise to this lawsuit.

Facebook is an interactive web service that uses its members' likenesses to advertise for Facebook's sponsors without the members' consent. This action on behalf of a class of Facebook members was filed against Facebook in March 2011, challenging the use of their likenesses under California privacy law and other state statutory and common-law causes of action.

Briefly describe the result below and the main issues on appeal.

The parties reached a settlement and the district court approved it over numerous objections. Among those objections was the issue that objectors-appellants Schachter, Parsons, and Leonard (on behalf of themselves and their minor children), and R.P. and J.C. raise here: the settlement authorizes Facebook to continue to violate the privacy laws of seven states prohibiting the use of a minor's likeness for advertising without parental consent.

Describe any proceedings remaining below or any related proceedings in other tribunals.

No proceedings remaining below. There is at least one action against Facebook, raising similar claims, that might be affected by the settlement: C.M.D. v. Facebook, Inc., No. 3:12-cv-01216 (N.D. Cal.).

Provide any other thoughts you would like to bring to the attention of the mediator.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached
 (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list
 may result in sanctions, including dismissal of the appeal.

Signature /s/ Scott Michelman

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for Schachter, Parsons, Leonard, R.P., J.C. (objectors-appellants)

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. To file this form electronically in Appellate ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.